

The 14th September, 1972

No. 10260-4-Lab-72/37182.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Laxmi Rattan Engineering Works, Ltd., Faridabad.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 56 of 1967.

between

THE WORKMEN AND THE MANAGEMENT OF M/S LAXAMI RATTAN ENGINEERING
WORKS, LTD., FARIDABAD

Present:—

Shri Onkar Parshad, for the workmen.

Shri R.C. Sharma, for the management.

AWARD

The workmen of M/s Laxmi Rattan Engineering Works, Ltd., Faridabad raised a demand for gratuity which was not accepted by the management. This gave rise to an industrial dispute. On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the above dispute for adjudication to this Tribunal,—vide order No. 221-SF-II-Lab-67/17812, dated 24th June, 1967 with the following term of reference.

“Whether the gratuity scheme should be introduced in the factory? If so, with what details and from which date?”

On receipt of the order of reference usual notices were given to the parties calling upon them to put in their respective claim in writing. The workmen reiterated their demand as earlier raised through the demand notice dated 30th January, 1967 contending that the respondent concern was well established and had huge profits. The management controverted the above allegation and contested the demand for gratuity mainly on the ground that the financial position of the concern did not warrant it.

It will not be out of place to mention here that the validity of the reference was also challenged by the management through a writ petition which was dismissed by the High Court by order dated October 7, 1967. The management has raised some preliminary objections in the written statement giving rise to the following issues:

1. Whether no industrial dispute existed between the parties which could be made a subject matter of the reference to this Tribunal?
2. Whether the reference is barred by term of the original settlement, dated 23rd November, 1966 and 16th April, 1967?

The above issues were found against the management by order of my learned predecessor and the writ petition filed by the management against the said order was also dismissed by the High Court on 26th April, 1972.

Now the only other issues that remains to be decided is as per the terms of reference stated above. Some evidence has been led on this issue on both sides. The management has produced the balance sheet and other documents Ex. M.W. 1/1 (10 leaves), M.W. 1/2 (13 leaves), besides examining two witnesses M.W. 1 Shri Raj Partap, Time Keeper, M.W. 2 Shri A.C. Ram Chandern, Commercial Manager. On behalf of the workmen their authorised representative Shri Onkar Parshad, General Secretary of the Engineering Mazdoor Union has come into the witness box.

Arguments have been addressed on both sides and I have been taken through the evidence on record.

As already pointed out the demand for gratuity raised by the workmen has been opposed on behalf of the management mainly on the ground of weak financial position of the concern. This contention is, however, not warranted by the facts on record which go a long way to show that it is an old and well established concern which has made profit from 1963 to 1969 except for the accounting year 1965. No account after 1969 have been produced. Moreover, in view of the coming central law on gratuity the above contention of the management has otherwise ceased to have any significances. The

issue is, therefore, decided in favour of the workmen and the management is directed to introduce the gratuity scheme as per details given below :—

1. Gratuity shall be payable to each workmen on the termination of his employment after he has rendered continuous service for not less than 5 years :—

- (a) on his superannuation, or
- (b) on his retirement or resignation, or
- (c) on his death or disablement due to accident or disease ;

Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of any workmen is due to death or disablement ;

Provided further that in the case of death of the employee gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to his heirs.

2. For every completed year of service or part thereof in excess of six months, gratuity to a workmen shall be paid at the rate of 15 days' wages based on the rate of wages last drawn by him.

3. Wages shall mean consolidated wages including dearness allowance only and no other allowance such as House Rent Allowance, Overtime Allowance, Bonus or any other special Allowance shall be taken into account for the purposes of computing the gratuity amount.

4. The amount of gratuity payable to a workmen shall not exceed 20 month's wages.

5. For the purposes of computing the gratuity payable to a workman who is employed, after his disablement, on reduced wages, his wages for the period preceding his disablement shall be taken to be the wages received by him during that period, and his wages for the period subsequent to his disablement shall be taken to be the wages as so reduced.

6. (a) The gratuity of a workman, whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused ;

(b) The gratuity payable to a workman shall be wholly forfeited :—

- (i) If the services of such a workman have been terminated for his riotous or disorderly conduct or any other act of violence on his part or
- (ii) If the services of such workman have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment.

The above scheme of gratuity shall be given effect to by the management from the date of the present reference, i.e., 19th June, 1967. The award is made accordingly but with no order as to costs.

O.P.SHARMA,

Presiding Officer,,
Industrial Tribunal, Haryana,
Faridabad.

Dated the 30th August, 1972.

No. 949, The 30th August, 1972.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O.P. SHARMA
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 30th August, 1972.

No. 10258-4 Lab-72/37184.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act. No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/S Hemla Embroidery Mills (P) LTD., Faridabad.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD.

Reference No. 3 of 1971.

Between

THE WORKMEN AND THE MANAGEMENT OF M/s HEMLA EMBROIDERY MILLS (P) LTD.,
FARIDABAD.

Present.—

Shri Darshan Singh, for the workmen.

Shri R.C. Sharma, for the management.

AWARD

The workmen of M/S Hemla Embroidery Mills (P) Ltd., Faridabad, raised a demand for gratuity which was opposed by the management. This gave rise to an industrial dispute. On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the above dispute for adjudication to this Tribunal,—vide order No. ID/FD/189-A/2854-58 dated 21-1-71 with the following term of reference.

“Whether gratuity scheme should be introduced in the factory? If so, with what details and from which date?”

Usual notices were given to the parties and they put in their respective written statements. The workmen reiterated their claim as earlier raised through the demand notice contending that the respondent concern was an old and well established concern having made huge profit and was in a sound financial position to bear the burden of the gratuity scheme. The management controverted the above allegation and contested the claim of the workmen mainly on the ground of its weak financial position. From the pleadings of the parties the only issue that arose for determination was as per the term of reference stated above.

The management has examined Shri Mohinder Singh, Managing Director who has proved the balance sheet for the year 1968-69 Ex. M.W.1/1. and Ex. M.W. 1/2. The financial position of the concern was not sound, it had incurred losses through out and the production had gone down and as such it was not in a position to introduce the gratuity scheme asked for by the workmen.

However, in view of the coming central law on gratuity the above and the only plea taken by the management against the claim of the workmen has ceased to have any relevancy or significance. The issue is therefore, decided in favour of the workmen and the management is directed to introduce the gratuity scheme as per details given below:—

1. Gratuity shall be payable to each workmen on the termination of his employment after he has rendered continuous service for not less than 5 years —

(a) on his superannuation, or

(b) on his retirement or resignation, or

(c) on his death or disablement due to accident or disease;

Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of any workman is due to death or disablement:

Provided further that in the case of death of the employee gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to his heirs.

2. For every completed years of service or part thereof in excess of six months, gratuity to a workman shall be paid at the rate of 15 day's wages based on the rate of wages last drawn by him.

3. Wages shall mean consolidated wages including dearness allowance only and no other allowance such as House Rent Allowance, Overtime Allowances, Bonus or any other Special Allowance shall be taken into account for the purposes of computing the gratuity amount.

4. The amount of gratuity payable to a workmen shall not exceed 20 month's wages.

5. For the purposes of computing the gratuity payable to a workmen who is employed, after his disablement, on reduced wages, his wages for the period preceding his disablement shall be taken to be the wages received by him during that period, and his wages for the period subsequent to his disablement shall be taken to be the wages as so reduced.

(6). (a) The gratuity of a workman, whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused ;

(b) The gratuity payable to a workman shall be wholly forfeited :—

- (i) If the services of such a workman have been terminated for his riotous or disorderly conduct or any other act of violence on his part or
- (ii) If the services of such workmen have been terminated for any Act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment.

The above scheme of gratuity shall be given effect to by the management from the date of the present reference, i.e., 21-1-71. The award is made accordingly but with no order to costs.

O.P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated the 30th August, 1972

No. 948, Dated 30th August, 1972

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Act, Disputes 1947.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated the 30th August, 1972.

S.N. BHANOT,
Commissioner for Labour and Employment and
Secretary to Government, Haryana.